

**REAL PROPERTY APPRAISER BOARD
MAIN LEVEL, ROOM “Y”
NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

17 June 2010

OPENING

Chairman Gregg Mitchell called to order the June 17, 2010 meeting of the Nebraska Real Property Appraiser Board at 9:51 a.m., in Room “Y” on the main level of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The meeting was late starting due to enforcement informal conferences that exceeded the allotted time.

NOTICE OF MEETING

Chairman Mitchell announced the notice of the meeting was duly given, posted, published and tendered in compliance with the Open Meetings Act, and all Board members received notice simultaneously by e-mail. Publication of official notice of the meeting appeared in the June 14, 2010 edition of the *Lincoln Journal Star*, a legal newspaper of general circulation in this State, as required by the public meeting law. The agenda was kept current in the Nebraska Real Property Appraiser Board Office and on the Board’s website. Materials generally used by the Board for this meeting were available in the public folder for inspection by the public and in accordance with the Open Meetings Act. A copy of the Open Meetings Act was available for the duration of the meeting. For the record, Board Members Bradford Moore, Matthew ‘Joe’ Wilson, Philip Barkley, David Hartman, and R. Gregg Mitchell were present. Director Kitty Policky was also present.

ADOPTION OF THE AGENDA

Chairman Mitchell reminded those present for the meeting that the Agenda cannot be altered 24 hours prior to the meeting except for emergency items according to the Open Meetings Act. Vice Chair Moore moved to adopt the Agenda as printed. Board Member Wilson seconded the motion. With no further discussion, the motion carried with Moore, Wilson, Barkley, Hartman, and Mitchell voting aye

WELCOME GUESTS

Chairman Mitchell welcomed the guests to the meeting and asked that they please sign the guest log.

APPROVAL OF THE MINUTES FROM MAY 20, 2010

Vice Chairman Moore asked for any additions or corrections to the May 20, 2010 minutes. With no additions or corrections, Vice Chairman Moore moved to adopt the minutes as presented. Board Member Hartman seconded the motion. With no further discussion the motion carried with Wilson, Barkley, Hartman, Moore, and Mitchell voting aye.

CHAIRMAN’S REPORT

Chairman Mitchell discussed the bid from the IT department for an application change by adding the printed expiration date on the pocket cards. The expiration date is part of our data base and would not require rewriting. The request was merely to print the expiration date. The bid submitted to the Appraiser Board for 22.5 hours @ \$85.00 would generate a total of \$1,912.50. Such costs are not affordable. The bid for the change is not acceptable. Other arrangements will have to be made to afford the change to the pocket card format.

Director Policky noted that Brenda Decker, Chief Information Office, explained that the department is cash funded and receives no support which causes the bidding process to be higher. Director Policky felt the explanation did not warrant a response but reminded members that we too are cash funded. The cost of \$85.00 an hour was not as abrasive as the 22.5 hours to add a printed line that already exists does solicit cause for concern. Such services will not be needed.

Chairman Mitchell discussed the future of technical support and noted we are forced to make other arrangements for IT support. Director Policky will make an appointment with Nebraska Online to discuss the future of web and document support.

DIRECTOR'S REPORT

Director Policky reported the number of appraisers for June 2010 stands as follows: 116 Registered/Conversion; 103 Licensed; 211 Certified Residential; and 381 Certified General for a total of 811 or an increase of six appraisers from the May meeting and 30 less than the total for June 2010 of 841 appraisers. The renewal process will come to an end on June 30th.

Director Policky proceeded to Legislative Resolution LR542 and the requirements to date. The summary of purpose and/or changes reports the General fund projections for the next biennium anticipate continued budget shortfalls which may result in the inability of state government to sustain current services under current revenue assumptions. LR542 calls for the Speaker to convene an ad hoc committee consisting of standing committee chairpersons and the chairperson of the Executive Board to discuss, plan, and oversee a process to review agency programs and services, including drafting enabling legislation to reduce services and obligations of state government. Director Policky did report to legal counsel for banking, Mr. Moreno to discuss the options for reporting and indicated that this credentialing service offers only those services federally as well as state mandated. There is no duplication of services as well as no means of eliminating services. No services are voluntary or discretionary and therefore no elements of the appraiser credentialing program could possibly be submitted to sustain the collection of enabling legislation for proposal in the upcoming legislative session. Mr. Moreno stated that no action would be taken at this time.

A last item for distribution was the Second Exposure Draft of proposed changes for the 2012-2013 edition of the "*Uniform Standards of Professional Practice* and Request for Public Comment." All interested parties are encouraged to comment in writing to the Appraisal Standards Board before the deadline of July 20, 2010. Comments are also invited at the ASB public meeting on July 30, 2010, in Indianapolis, Indiana or by email @ comment@appraisalfoundation.org.

Director Policky closed the report by thanking the Board for their service and assistance.

RECEIPTS AND EXPENDITURES REPORT – MAY 2010

The receipts and expenditures for May were reviewed by the Director by line item with the Board. A total of \$12,746.92 in expenditures and \$6,920.50 in receivables is reported. A copy of the Budget Status Report, the General Ledger Detail Report and Receipt Journal for May are attached and considered part of these minutes.

Director Policky explained that Account #493200, Operating Transfers Out, reflects the monies appropriated from the cash fund of the Appraiser Board under the guidelines of LB1 adopted 2009 in the amount of \$17,720.50. Although the Budget Status Report reflects this transaction, a separate General Ledger Post report has been included. Board Member Barkley moved to accept and file the May 2010 Receipts and Expenditures report for audit. Vice Chairman Moore seconded the

motion. With no further discussion the motion carried with Wilson, Barkley, Hartman, Moore, and Mitchell voting aye.

Vice Chairman Moore pointed out the success in saving funds in an amount adequate to send the members of the Board and the Director to the Appraiser Regulatory Meeting (AARO) in Washington, DC, October 2-5, 2010. This meeting is held in conjunction with the Appraisal Foundation and Appraisal Subcommittee meeting beginning on October 1, 2010. The meeting is one of the most important in that proposed and new regulations are discussed as well as the proposed and new changes to the federal oversight of the appraisal profession. Vice Chairman Moore moved that the registration fee, airline, and hotel costs be paid from the 2009-10 fiscal budget. All remaining costs would be assumed by the individual. All costs will be submitted by Wednesday, June 23rd to be paid from this fiscal budget. Board Member Wilson seconded the motion. With no further discussion the motion carried with Barkley, Hartman, Moore, Wilson, and Mitchell voting aye.

UNFINISHED BUSINESS

1. Rules & Regulations/ Rule Hearing

Distributed to each member was the April 22nd adopted rules and regulations. Director Policky included the attestation for NAC Title 298 Nebraska Administrative Code in distributing all required documents to the Governor's Policy Research office, the Secretary of State, and the Executive Board of the Legislative Council. The Public Rule-Making Hearing was held as advertised on Monday, June 14th, 2010 at 9:00 a.m. in the Nebraska Real Property Appraiser Board office. In the absence of proponents, opponents, other interested parties, or written testimony, the Hearing Officer announced the proposed changes to Title 298 as presented will proceed to the Attorney General's office after the final vote of the Board. To date, all requirements to proceed with the rule making obligations have been met. The Rule Hearing Notice and the proposed rules and regulations were posted on the Appraiser Board website as well as the Secretary of State's website.

Chairman Mitchell requested a motion to adopt the final draft of the proposed rules and regulations. Vice Chairman seconded the motion. With no further discussion the motion carried with Hartman, Moore, Wilson, Barkley, and Mitchell voting aye.

Director Policky presented to the Board the minutes of the Rule Hearing held on June 14, 2010 for review and approval. Director Policky served as Hearing Officer. In the absence of proponents, opponents, other interested parties, or written testimony, the Hearing Officer announced the proposed changes to Title 298 are without challenge and are presented to the Board for final approval. The monthly business meeting of the Appraiser Board was advertised in the *Lincoln Journal Star* on June 14, 2010, with announcement of the rulemaking hearing, legally advertised on May 11, 2010, in the *Lincoln Journal Star*. Final approval will permit proceeding with the rulemaking process and forwarding the final adopted rules and regulations to the Attorney General's office.

Chair Mitchell requested a motion to adopt the minutes of the Rule Hearing as presented. Vice Chair Moore proposed approval of the minutes as presented. Board Member Wilson seconded the motion. With no further discussion the motion carried with Moore, Wilson, Barkley, Hartman, and Mitchell voting aye.

Board took a break at 10:49 a.m.

Board meeting reconvened at 11:08 a.m.

2. Inactivate Credential.

Director Policky presented to the Board proposed guidelines to inactivate a credential. The proposed policy was introduced at the May meeting with a request to return the item to the June meeting. The proposed guidelines included the forms to apply to inactivate a credential as well as the proposed form to activate a credential. Board members made changes and additions to the proposed policy. Director Policky will make the requested changes and forward to Board members for final approval. Board Member Wilson proposed adopting the policy and forms to inactivate a credential. The documents are attached and considered part of these minutes. Vice Chairman seconded the motion. With no further discussion the motion carried with Wilson, Barkley, Hartman, Moore, and Mitchell voting aye.

Board took a break for lunch at 11:36 a.m.

Board meeting reconvened at 11:47 a.m.

3. Staggered Credential Proposal

Director Policky presented to the Board proposed guidelines to implement a renewal process to allow a credential to pay renewal for a two-year period instead of the annual renewal based on the continuing education period requirements. The proposed guidelines read as follows:

STAGGERED CREDENTIALING PROPOSAL

The process of renewal for all current credentials will become a biannual instead of an annual process. The biannual process will be determined according to the two-year continuing education cycle. Appraisers who are a 2009-2010 continuing education period will be renewed for a two-year period or a 2011-2012 continuing education period. The biannual renewal will be effective from January 1, 2011 to December 31, 2012.

Appraisers who are a 2010-2011 continuing education period will be renewed for a one-year period until they complete the two-year continuing education requirement cycle. At such time, the renewal period will become a biannual period of 2012-2013 and will reflect the appropriate continuing education period.

All credentials eligible for biannual renewal include Appraiser Trainee, Licensed Residential, Certified Residential, and Certified General. Registered appraisers will renew on an annual basis until three renewals, beginning with 2008, have been completed or three years from the year you were initially credentialed. The Registered credential is terminated at the end of the three renewal periods.

Biannual renewal periods will apply to all reciprocal appraisers although no proof of education is required under the statutory obligation of NEB. REV. STAT. 76-2236. Rates apply to reciprocal credentials respectively. The two year cycle is determined by the year you were initially credentialed.

The renewal fee will be billed appropriately on the form.

Board members felt the guidelines adequately addressed considerations for all credentials. Although our renewal process will be based on the annual rate because the Registered and Appraiser Trainee

credential are not eligible for two year processing, the remaining credentials could be renewed on a two year rate. The issuance of a pocket card effective for two years may make the obligations to financial institutions as well as insurance carriers more convenient. The effective dates for the pocket cards were adjusted in LB931 by recognizing the designated year to address the need for an annual as well as a two year expiration date. Although adjustments may have to be visited to complete the transition, Board Member Wilson proposed a motion to approve the guidelines for staggered credentialing as presented. Vice Chairman Moore seconded the motion. With no further discussion the motion carried with Barkley, Hartman, Moore, Wilson, and Mitchell voting aye.

H. NEW BUSINESS

1. Proposed 2011/12 Initial and Renewal Fees

A proposed request for 2011 and 2012 initial and renewal fees was presented to the Board for approval. The proposal cited the statute and well as rules and regulations for guidelines to establish the monetary amount. It is apparent, based on 2010 accounting rates, that the fees do not meet the financial obligations of the office. Projected income for 2011, based on 2010 accounting of 786 renewed credentials and 45 new credentials issued generating an income of approximately \$152,975.00. Although credentialing is not the only source of income it generates the majority of the monies collected. It was pointed out that we have intentionally maintained a generous cash fund in anticipation of the elimination of the Registered credential as well as the stagnate nature of the profession with the implementation of the new criteria on January 1, 2008. It is also imperative to consider that the Nebraska Legislature solicited from the cash funds as a result of LB1 in 2009 a total of \$106,400 for fiscal years 09-10 and 10-11, which actually means that unappropriated funding from the cash fund account, was solicited by the Legislature to makeup for the Nebraska budget shortfall. Never before has the Legislature taken funds from cash funded agencies.

Under the circumstances, Board members felt the current funding would be adequate to address the upcoming renewal and initial rates suggesting that the rates remain the same for 2011 as well as 2012. The current rates are as follows: Renewal fee of \$175 for Licensed Residential, Certified Residential, and Certified General. The renewal amount for the federally recognized designations would remit in addition to the renewal fee the \$25.00 fee due to the Appraisal Subcommittee for each credential. The Registered/Conversion and Appraiser Trainee renewal rate would remain at \$200.00. The new credential rate would remain at \$275.00 for Licensed Residential, Certified Residential, and Certified General in addition to the \$25.00 fee payable to the Appraisal Subcommittee as required by law. The initial Registered rate would remain at \$300.00 for 2011.

Board Member Wilson proposed the annual cost for renewal and initial credentialing fees would remain at the 2010 rate. Board Member Barkley seconded the motion. With no further discussion the motion carried with Hartman, Moore, Wilson, Barkley, and Mitchell voting aye.

2. AMP fiscal year 2010-2011 contract.

Director Policky presented to the Board the 2010-11 AMP contract to administer AQB approved testing for each credential candidate from Nebraska. Further discussion indicated the contract was acceptable as presented. Board Member Wilson moved to approve the AMP contract and designate Chair Mitchell to sign. Board Member Barkley seconded the motion. With no further discussion the motion carried with Moore, Wilson, Barkley, Hartman, and Mitchell voting aye.

GENERAL PUBLIC COMMENTS

Chair Mitchell asked for any public comments. With no further comments, the Chair proceeded to education.

EDUCATION

Board Member Wilson moved to approve the following continuing education seminars and respective instructors as listed:

Continuing Education New:

1. McKissock, LP, Warren, PA:

A. "Appraising & Analyzing Office Buildings for Mortgage Underwriting" / 7 hours / ONLINE / C21009-I

Instructor: Bruce Coin

B. "Nuts & Bolts of Green Building for Appraisers" / 3 hours / ONLINE / C21017-I

Instructor: Richard McKissock

C. "Foundations in Sustainability: Greening the Real Estate and Appraisal Industries" / 7 hours / ONLINE / C21018-I

2. Appraisal Institute, Chicago, IL:

A. "Appraisal Curriculum Overview / General" / 7 hours / ONLINE / C2858-I

Instructor: Mark Rattermann

3. Appraisal University, Portsmouth, NH

A. "Appraising Historic Properties" / 7 hours / ONLINE / C21016-I

Vice Chairman Moore seconded the motion. With no further discussion the motion carried with Wilson, Barkley, Hartman, Moore, and Mitchell voting aye.

Board Member Wilson moved to approve the following continuing education seminars and respective instructors as listed:

Continuing Education New:

The Moore Group, Lincoln, NE:

A. "Understanding the REO Addendum & Overcoming its Deficiencies" / 4 hours / C21014

Instructors: Bradford Moore & Diane Moore

B. "Nebraska Real Property Appraiser Law" / 3 hours / C21015

Instructors: Bradford Moore & Diane Moore

Board Member Barkley seconded the motion. With no further discussion the motion carried with Barkley, Hartman, Wilson, and Mitchell voting aye. Vice Chairman Moore abstained.

Director Policky presented to members a request to approve core curriculum education credit from the American Society of Farm Managers and Rural Appraisers offerings. The core curriculum education is AQB/CAP approved but they have not successfully implemented the modular format at this time. A candidate for credentialing would need to complete the 35-hour Advanced Income course from the Appraisal Institute upon completion of A110, A200, and A300 in addition to Market Analysis & Highest & Best Use, General Appraiser Report Writing & Case Studies, Appraiser Income Approach and Statistics, Modeling, & Finance. Director Policky informed the Board that a candidate has made the request for approval. Considering the completed education meets the AQB/CAP approval requirement, upon completion of the aforementioned education, the Board felt it could approve the request for core curriculum education credit.

Vice Chairman Moore moved to approve the request for core curriculum education credit upon completion of the additional education as presented. Board Member Wilson seconded the motion. With no further discussion the motion carried with Hartman, Moore, Wilson, Barkley, and Mitchell voting aye

Board took a break at 12:20 p.m.

Board meeting reconvened at 12:35 p.m.

APPLICANTS & ENFORCEMENT

Vice Chair Moore moved that the Board go into executive session for the purpose of reviewing applicants for credentialing and consideration of written complaints and disciplinary action. A closed session is clearly necessary to prevent needless injury to the reputation of the individual or individuals relating to the issues of qualifying applicants and relating to the alleged violations of performance in real property appraisal practice. The time on the meeting clock was 12:37 p.m. Board Member Wilson seconded the motion. With no further discussion the motion carried with Hartman, Moore, Wilson, Barkley, and Mitchell voting aye.

Vice Chair Moore moved to come out of executive session at 2:04 p.m. Board Member Wilson seconded the motion. The motion carried with Moore, Wilson, Barkley, Harman, and Mitchell voting aye.

MOTIONS TO ACT ON CLOSED SESSION AGENDA

Chairman Mitchell opened the floor to discussion of closed session agenda items.

Vice Chair Moore moved to take the following action Certified General Reciprocity applicant: CG605 Applicant meets statutory guidelines. Approve as reciprocal credential.

Board Member Wilson seconded the motion. Motion carried with Wilson, Barkley, Hartman, Moore, and Mitchell voting aye.

Vice Chair Moore moved to take the following enforcement actions:

- 06-22 Hold. Education must be completed by Nov. 30th and report submission completed by Dec. 31st. Failure to meet deadlines / Dec. 31, file Formal Complaint. Appraiser has not renewed credential for 2010. Deadline for renewal is June 30th.
- 08-04 Hold. Education due by December 31, 2009. Credential suspended until requirements of Consent Agreement are met. Appraiser has not renewed credential for 2010. Deadline for renewal is June 30th.
- 09-02 Completed conditions of Consent Agreement. Close case.
- 09-26 Consent Agreement. Due by 5/22/2010. Grant request for extension to reply until 7/14/2010.
- 10-03 Chairman sign Consent Agreement. Agreement 2-day USPAP & General Report Writing & Case Studies.
- 10-05B Chairman sign Consent Agreement. Agreement 2-day USPAP & Residential Report Writing & Case Studies.
- 10-07A Consent Agreement 2-day USPAP & Residential Report Writing & Case Studies.
- 10-07B Consent Agreement 2-day USPAP & Residential Report Writing & Case Studies.
- 10-08 Consent Agreement 2-day USPAP & General Report Writing & Case Studies.

- 10-09 Advisory letter.
- 10-10A Hold. Credential holder has until June 30th to renew credential.
- 10-10B Hold. Credential holder has until June 30th to renew credential.
- 10-11A Hold. Credential holder has until June 30th to renew credential.
- 10-11B Hold. Credential holder has until June 30th to renew credential.
- 10-12 Request true copy of report and workfile. Send for Standard 3 Compliance Report.
- 10-13 Request true copy of report and workfile. Send for Standard 3 Compliance Report.
- 10-14 Request true copy of report and workfile. Send for Standard 3 Compliance Report.

Board Member Wilson seconded the Motion. With no further discussion the motion carried with Barkley, Hartman, Moore, Wilson, and Mitchell voting aye.

Vice Chair Moore moved to take the following enforcement action:

- 09-07 Hold. Formal / Hearing. Case sent to Judge.
- 09-09 Hold. Formal / Hearing. Case sent to Judge.
- 09-25 Hold until Case #09-07 & #09-09 are completed.

Board Member Barkley seconded the motion. The motion carried with Hartman, Moore, Barkley, and Mitchell voting aye. Board Member Wilson abstained.

Vice Chair Moore moved to take the following enforcement action:

- 08-11 Hold / Board granted another extension for education until March 1, 2010. Stress to appraiser there will be no further extensions. Appraiser has not met conditions of Consent Agreement. Appraiser has not renewed 2010 credential to date. Deadline is June 30th to renew credential.

Board Member Wilson seconded the motion. The motion carried with Moore, Wilson, Hartman, and Mitchell voting aye. Board Member Barkley abstained.

Tentative meeting dates were approved as follows: July 15, 2010 / 1Y
August 19, 2010 / 1Y
September 16, 2010 / 1Y
October 21, 2010 / 1Y

ADJOURNMENT

Board Member Wilson moved to adjourn the meeting. Board Member Barkley seconded the motion. Motion carried unanimously.

At 2:10 p.m. Chairman Mitchell adjourned the June 17, 2010 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Kitty Policky, Director

These minutes were available for public inspection on June 22, 2010, in compliance with Nebraska Statute §84-1413(5).